

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>WILLIAM CUMMINGS,</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>CIVIL ACTION NO. 22-1119</b>
	:	
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
	:	
<b>A. WELLER, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**ORDER**

Presently before the court is the report of Judge Carlson, (Doc. 38), recommending the court deny the defendants' motion to dismiss, (Doc. 17), without prejudice. No objections to the report were filed and the time to so object has passed.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D. Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). In any event, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or

recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

Since the report delineates the factual background of this case, it will not be fully repeated herein. (See Doc. 38 at 1–2). In sum, this is a *pro se* prisoner civil rights lawsuit in which the defendants are seeking to dismiss the complaint on one ground: the plaintiff's complaint is so vague and incomprehensible that it violates the pleading standard set forth in Rule 8 of the Federal Rules of Civil Procedure. Judge Carlson, surveying Plaintiff's complaint, acknowledged that some aspects therein demand a great deal of the reader, but "in the main th[e] pleading makes specific allegations of particular misconduct by specific correctional officers" such that it "satisfied the rudimentary pleading standards prescribed by Rule 8." (Doc. 38 at 2); see Fed. R. Civ. P. 8(a)(2) ("A pleading that states a claim for relief must contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief."). A review of the complaint demonstrates Judge Carlson's findings are consistent with the Rule 8 pleading standard.

The court has considered the findings of Judge Carlson's report and finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Carlson to the conclusions in his report. As such, the report, **(Doc. 38)**, is **ADOPTED IN ITS ENTIRETY** as the decision of the court. Defendants' motion to dismiss, **(Doc. 17)**, is **DENIED** without prejudice to the filing of more specifically focused dispositive motions.

*S/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
**United States District Judge**

**DATE: June 26, 2023**

22-1119-02